IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 16043 of 2007(I)

CP.101/2002 of LABOUR COURT, KOLLAM

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PETITIONER:

BALAN,LAKSHAM VEEDU COLONY,
MUTHUPILAKKAD P.O,SASTHAMCOTTA VILLAGE,KOLLAM
DISTRICT.

BY ADV. SRI.PRAKASH P.GEORGE
SRI.K.VVIJAYAKUMAR

RESPONDENTS:

1. LABOUR COURT,KOLLAM.

2. SRI.RADHAKRISHNA PILLAI,
'LAKSHMI BHAVAN',KILIKOLLUR P.O,KOLLAM.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.16043 of 2007

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Dated this the 28th day of May, 2007

J U D G M E N T

The petitioner, a workman employed by the 2nd respondent-management, challenges Ext.P3 order of the Labour Court, Kollam, in C.P.No.101/2002. The Claim petition was filed by the petitioner seeking payment of minimum wages, arrears of wages, retaining allowance, heat allowance and bonus. After finding that the claim petition itself was not maintainable, the Labour Court went on to consider the merits of the claim and rejected the same on merits also.

2. The claim petition was held to be not maintainable on the ground that it was originally filed under section 20(2) and Rule 31 of the Minimum Wages Act and later on, the petitioner amended the cause-title of the petition including Section 33-C(2) of Industrial Disputes Act also, but failed to make any changes in the body of the application correspondingly. Even if there is any

merit in the challenge against this finding of the Labour Court, I am not inclined to entertain this writ petition on that ground, because the Labour Court had considered the petitioner's claim on merits and found that the contentions of the petitioner are not sustainable on merits also, which finding is perfectly valid and proper.

3. The claim for minimum wages was made on the premise that actual wages paid to the petitioner were less than the minimum wages payable. But the petitioner did not produce or cite any notification fixing minimum wages, without which, it cannot be ascertained whether, what has been paid to the petitioner is less than the minimum wages, although he claimed that minimum wages as per the notification was Rs.1965/- as basic pay and Rs.208.20 as D.A. When the petitioner has not produced evidence to show that the wages paid to the petitioner as claimed by him was less than the minimum wages, I do not find any infirmity in the findings of the Labour Court. On the question of retaining allowance, the petitioner

himself admitted in cross-examination that from 1998 October to August, 1999 the factory was closed. On that ground only the claim for retaining allowance for the said period was found to be not payable to the petitioner. Admittedly, the claim for other amounts was based on the claim for minimum wages and when the claim for minimum wages was negatived, naturally the other claims also could not have been computed by the Labour Court. Therefore, it is evident that the petitioner had not produced any acceptable material before the Labour Court for consideration of his claims even on merits. Therefore, in any event, the Labour Court could not have granted the petitioner any relief whatsoever. In the above circumstances, I do not find any infirmity in Ext.P3 order of the Labour Court justifying interference at the hands of this court and therefore, the writ petition lacks merits. Accordingly the same is dismissed.

sdk+ S.SIRI JAGAN, JUDGE